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FACE.

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Before the FEDERAL COMMUNICATIONS COMMISSION Washington, DC 20554

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In the Matter of)		DEFICE OF THE SECRETARY
Amendment of Section 73.202(b))	MB Docket No. 03-120	
Table of Allotments)	RM - 10591	
FM Broadcast Stations)		
(Lake City and Chattanooga, Tennessee))		

To: Assistant Chief, Audio Division Media Bureau

COUNTERPROPOSAL

JBD Incorporated ("JBD"), licensee of Station WXJB(FM), Harrrogate, Tennessee, by its counsel, and pursuant to Section 1.415 of the Commission's Rules, hereby submits this Counterproposal in the above-captioned proceeding. JBD requests that the Commission amend the FM Table of Allotments to delete Channel 243A at Harrogate, Tennessee, allot Channel 244A to Halls Crossroads, Tennessee as that community's first local service, and modify the license of WXJB to reflect operation on Channel 244A at Halls Crossroads. The following table summarizes the changes requested in this Petition:

City	Channel			
,	Existing	Proposed		
Halls Crossroads, Tennessee		244A		
Harrogate, Tennessee	243A			

1. Preliminary Matters

1. No station other than WXJB is required to make changes in order to effectuate this Counterproposal. JBD notes an <u>Order to Show Cause</u> for a Class C0 reclassification has already been issued to the licensee of WDOD-FM, Chattanooga, Tennessee and the licensee has

See Notice of Proposed Rule Making, DA 03-1708 (rel, May 20, 2003).

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not contested the reclassification. See Notice of Proposed Rule Making, supra. Although this Counterproposal does not trigger the downgrade of WDOD-FM, JBD supports the reclassification of Station WDOD-FM, in order to provide Station WXJB more flexibility in applying for a new transmitter site for Halls Crossroads. Since the necessary procedures have already been followed in this proceeding, the reclassification should be merely a ministerial act.

2. If this Counterproposal is granted, JBD will file an application for Channel 244A at Halls Crossroads and will construct the authorized facilities if its application is granted.

II. Conflict with the Petition

- 3. The *Notice of Proposed Rule Making* proposes the allotment of Channel 244A to Lake City, Tennessee at the request of the petitioner in this proceeding. As demonstrated in the Technical Exhibit, the proposed Channel 244A allotment at Halls Crossroads is mutually exclusive with the petitioner's Channel 224A allotment at Lake City. Accordingly, this Counterproposal is properly considered in this proceeding. Because of this conflict, the Commission must compare the two mutually exclusive proposals according to its allotment priorities as set forth in *Revision of FM Assignment Policies and Procedures*, 90 F.C.C.2d 88 (1982). This comparison favors the Halls Crossroads counterproposal.
- 4. Under the Counterproposal, Halls Crossroads (pop. 11,683)² would receive its first local service, furthering Priority (3). Lake City (pop. 1,888) already has a pending application for a noncommercial educational FM radio station. File No. BPED-19960710MA.³ If that application is granted, the petition in this proceeding would only offer a second local

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This population count was determined by Joe Riley, the demographic specialist at the Knoxville Area Chamber Partnership, using 2000 U.S. Census data. He arrived at this number by adding Census Tracts 62.02 (population: 3,701) and 62.03 (population: 4,482) which consist exclusively of Halls Crossroads residents. He then estimated that approximately 3,500 of the 8,646 residents of Census Tract 64 are also Halls Crossroads Residents. Thus, 3,701 : 4,482 + 3,500 = 11,683 total residents of Halls Crossroads.

service at Lake City, which is considered under Priority (4). See Conflicts between Applications and Petitions for Rulemaking, 7 FCC Red 4917, 4919 (1992), recon. granted in part, 8 FCC Red 4743 (1993) (application protected from subsequently filed petitions 30 days after public notice). However, even if the pending application is denied, Halls Crossroads would still be preferred over Lake City because of its greater population. See e.g., Blanchard, Louisiana and Stephens, Arkansas, 10 FCC Red 9828 (1995).

III. Compliance with the Commission's Technical Rules

A. Technical Analysis

5. As demonstrated in the Engineering Statement, Channel 244A can be allotted to Halls Crossroads, Tennessee at coordinates 36-09-43 North Latitude 83-58-33 West Longitude consistent with Section 73.207 of the Commission's Rules. *See* Technical Exhibit, Figure 1. A 70 dBu signal can be provided to Halls Crossroads from the proposed reference point. *See* Figure 2. The relocation of WXJB to Halls Crossroads will result in a net gain in population of 326,568 persons able to receive a 60 dBu signal from the station. *See* Engineering Statement. The loss area will continue to remain well-served. *See* Figure 4. *See Scappoose and Tillamook, Oregon.* 15 FCC Rcd 10899 (2000); *Detroit Lakes and Barnesville, Minnesota,* 16 FCC Rcd 22581 (2001); *Earle, Arkansas. et al.,* 10 FCC Rcd 8270 (1995). In addition, three preexisting short spacings to Station WXCC (10.14 km) and WOXL-FM (5.32 km) and WDOD (3.69km) will be eliminated.

B. Change in Community of License

6. JBD desires to change the community of license of Station WXJB from Harrogate to Halls Crossroads under the guidelines set forth in *Amendment of the Commission's Rules*

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The Lake City application is mutually exclusive with another application for Newport, Tennessee, File No. BPED-19961203ME.

Regarding Modification of FM and TV Authorizations to Specify a New Community of License, 4 FCC Rcd 3870 (1989), recon. granted in part, 5 FCC Rcd 7094 (1990) ("Community of License"). There, the Commission stated that a station may change its community of license without subjecting the licensee to other expressions of interest if (1) the proposed allotment is mutually exclusive with the current allotment; (2) the current community of license will not be deprived of its only local service; and (3) the proposed arrangement of allotments is preferred under the Commission's allotment priorities. These criteria are met here. First, the proposed use of Channel 244A at Halls Crossroads is mutually exclusive with the current use of Channel 243A at Harrogate. See Technical Exhibit, Figure 1. Second, Harrogate (pop. 2,865)⁴ will not be deprived of its only local service because Stations WLMU(FM), Channel 217A, and WRWB(AM), 740 kHz will remain licensed to Harrogate. Third, the provision of a first local service at Halls Crossroads (population 11,683) under Priority 3 will result in a preferential arrangement of allotments over the retention of a third local service at Harrogate under Priority 4. See Revision of FM Assignment Policies and Procedures, supra.

- 7. Halls Crossroads is partially located within the Knoxville, Tennessee Urbanized Area. This implicates the Commission's concern with the relocation of stations from rural to urbanized areas. *See Headland, Alabama and Chattahoochee, Florida*, 10 FCC Rcd 10352 (1995). Accordingly, a demonstration of the independence of Halls Crossroads from Knoxville is provided.
- 8. In making the determination whether to award an urbanized community a first local service preference, the Commission will consider the extent the station will provide service to the entire Urbanized Area, the relative populations and proximity of the suburban and central

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The community is referred to as Harrogate-Shawanee (CDP) in the 2000 U.S. Census.

city, and, most importantly, the independence of the suburban community. Faye and Richard Tuck, 3 FCC Rcd 5374 (1988). In this case, WXJB would place a 70 dBu contour over less than 50% of the Knoxville Urbanized Area. The population of Halls Crossroads (11,683) is 6.7 percent of the population of Knoxville (173,890). These figures are similar to those of other suburban communities granted a first local preference. See, e.g., Anniston, Alabama, et al., 16 FCC Rcd 3411 (2001), recon. denied, 17 FCC Rcd 14830 (2002) and cases cited therein. In any event, the Commission has repeatedly stated that these factors are less important than evidence of independence. See Headland, Alabama, supra. The following analysis of the eight Tuck factors demonstrates the independence of Halls Crossroads from Knoxville.

- (1) Extent to which the residents of Halls Crossroads, Tennessee, work in Halls Crossroads. The population of Halls Crossroads, Tennessee was 11,683 in 2000. (See Footnote 2, above). According to Darlene Kinsey at the Halls Shopper News, a large number of Halls Crossroads residents both live and work in Halls Crossroads.
- (2) Newspapers and other media that cover Halls Crossroads' needs and interests. The Halls Shopper News is a weekly publication that serves the Halls Crossroads area. According to Ms. Kinsey, the paper, which was founded over forty years ago, is published each Monday and has a circulation of 20,000. It contains local community and business news, a classified section, and has advertisements throughout. The paper can also be found online at www.hallsnews.com. See Exhibit 1.
- (3) Community leaders and residents perceive Halls Crossroads as being separate from Knoxville. Halls Crossroads has its own unique identity and history that is separate from that of Knoxville. Halls Crossroads began when pioneers settled the area in the late 1700's. See "History of Halls," compiled by the Halls Business and

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Professional Club, 1985; pamphlet located at the Halls Branch Library, not for circulation. The community is named after Thomas Hall, who was born in 1758 and moved to Tennessee in 1797. *Id.* Pulaski Hall also built a general store in the 1860's at the crossroads of what is now Emory Road and Andersonville Pike, inspiring the term "crossroads" in the town name. *See* Ed Marcum, *Strong bonds help Fountain City, Halls, Powell change with times, Knox News*, March 30, 2003, at http://www.knoxnews.com/kns/discover/article/0,1406,KNS_10188_1823500,00.html. According to Jody Allen of the Metropolitan Planning Commission, although the community's official name is Halls Crossroads, residents now refer to the community simply as Halls. See Exhibit 1.

According to Sally Dill, Branch Manager of the Halls Branch Library, Halls Crossroads is a "growing, thriving, community with many businesses and quite a community spirit." She also mentioned that the town has a community slogan, "Halls has it!" which can be seen on signs around the area. Similarly, Ms. Allen noted that Halls Crossroads is very much its own community, citing the many Halls businesses and Halls schools, which educate residents from grades K through 12. The community of Halls Crossroads also comes together each year for its own annual volleyball tournament called "Spike on the Pike." *See Halls Shopper News*, July 7, 2003, vol. 8, no. 24. See Exhibit

Evidence of Halls Crossroads residents' devotion and attachment to their community can be found on the "Guest Book" pages of the *Halls Shopper News* online edition (http://www.hallsnews.com/guest_book.htm). The following are just two of the dozens of comments from readers of the *Halls Shopper News* who are excited about staying connected to the Halls community: "Keeps me up to date on the Halls news

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during our winter months in Florida. Look forward to reading it each week" (Ethel Shrader), and "It is so great to read the Shopper online. I am a former Halls resident. My brother and I live in Hawaii and our sister always sends us old Shoppers to read...Thanks for allowing us the opportunity to keep up with our home so far away" (Brenda Mynatt Correa). *Id.* See Exhibit 1.

- (4) Halls Crossroads has its own County Clerk Office branch and its own trash and recycling center. Although Halls Crossroads does not have a local government, it does have its own, separate Halls Office of the Knox County Clerk. Located at Halls Center, this office provides marriage license, drivers license, motor vehicle, notary public, passport, business license, and community computer lab services for the Halls Crossroads area. The town of Halls Crossroads also provides for its own trash and recycling at the Halls Trash Convenience Center. See Exhibit 1.
- (5) Halls Crossroads spans two zip codes and has its own separate listing in the local telephone company directory. The two zip codes that encompass the Halls Crossroads area are 37918 and 37938. According to Ms. Dill, the local area TDF Telecomm Phone Book contains separate sections for Halls Crossroads residential and business listings. See Exhibit 1.
- (6) Halls Crossroads has its own commercial establishments and health facilities. Halls Crossroads is home to a variety of businesses and commercial establishments. Many of these businesses identify with the community by using "Halls" in their names, including: Halls Auto Parts, Halls Auto Repair, Midas of Halls Crossroads, Halls Cinema Seven, Halls Cleaners, Inc., Halls Collision Repair, Halls Community Park, Halls Family Hair Styles, Halls Flower Shop, Halls Memory Gardens, Halls Kroger, Halls Paint and

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Decorating, Inc., Halls Plaza, Halls Properties, Inc., Halls Service Center, Inc., Halls Star Concession, and Halls Upholstery. Halls Crossroads commercial businesses also include the Mandarin House Chinese Buffet, GNC, K-Mart, Movies 4 Sale, Sofas and More, Mr. Gaddy's Pizza, and Kay's Ice Cream. According to Ms. Kinsey, banking services are provided by the K-25 Federal Credit Union, Sun Trust Bank, Union Planners, and First Tennessee. The ORNL Credit Union also just broke ground for its Halls Crossroads facility, which is set to open later this year. *See* Sandra Clark, *ORNL Breaks Ground for Halls Facility*, Halls Shopper News, July 7, 2003, vol. 8, no. 24.

A number of health care providers are located in Halls Crossroads. Medical services are provided by Halls Walk-In Medical Clinic, Halls Vision Clinic, and Halls Chiropractic Clinic. According to Ms. Kinsey, dental, medical, and veterinary services are also provided by several sole practitioners.

Halls Crossroads is home to a number of religious organizations, including Crossroads Presbyterian (which operates a food pantry called the Halls Welfare Ministry), Salem Baptist Church (website: www.salembaptist-halls.org), Halls Baptist Church, Halls Christian Church, and Christ United Methodist Church. Civic organizations in Halls Crossroads include the Halls Business and Professional Association, the Halls Lions Club, the Halls Republican Club, and the Halls Senior Citizen activity group. See Exhibit 1.

(7) Halls Crossroads is a separate and distinct advertising market from Knoxville. According to Ms. Kinsey, local businesses advertise in the Halls Shopper News, enabling them to reach the residents of Halls Crossroads without relying primarily on Knoxville media sources.

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(8) Halls Crossroads has its own library and public schools and municipal services. The Halls Center provides many municipal services to its residents including Marriage and Drivers Licenses, other motor vehicle services, notary public, passports, business license tax and computer labs. The Halls Branch Library serves the local population of Halls Crossroads. The library was founded in 1963 and is part of the Knox County Public Library System. It is open Mondays through Saturdays (for fifty-two and a half total hours per week). The library opens at 10:00 a.m. and holds evening hours until 8:00 p.m. three days per week. According to Ms. Dill, it has a book collection of 36,000, computer and internet access, and books-on-tape and children's video collections. The library holds a story time session three days per week for area children. In October, 2003, the library will be moving into a new, larger building. Halls Crossroads is also home to Halls Elementary School, Halls Middle School, and Halls High School, which are all part of the Knox County school system. See Exhibit 1.

IV. Conclusion

Grant of this petition is in the public interest because Halls Crossroads, Tennessee will receive its first local service, there will be a net gain in population served of 326,568 persons, and three existing short spacings will be eliminated. JBD reiterates that if the Commission grants this petition, it will file an application and construct the authorized facilities. The Commission should promptly grant the Counterproposal.

251160, 2.DOC 9

Respectfully submitted,

JBD INCORPORATED

By:

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Its Counsel

July 11, 2003

Engineering Statement In Support of a Counterproposal

MB Docket 03-120 WXJB, Halls Crossroads, Tennessee

General

In MB Docket 03-120 channel 244A was proposed at Lake City, Tennessee. In the instant counterproposal JBD, Incorporated (herein referred to as "JBD") proposes to delete channel 243A at Harrogate, Tennessee (WXJB) and allocate channel 244A at Halls Crossroads. Tennessee as that community's first local service. Harrogate will continue to be served by WLMU(FM) and WRWB(AM).

Exhibits Explained

Exhibit E. Figure 1 shows that the proposed allotment site for channel 244A at Halls Crossroads is mutually exclusive with both the licensed site of WXJB and the proposed allocation of channel 244A at Lake City. No other spectrum modifications are needed to allocate channel 244A at Halls Crossroads. (The triggering of WDOD in Chattanooga, TN is not necessary to allocate channel 244A at Halls Crossroads, while it is necessary to allocate channel 244A at Lake City as a new facility.)

Exhibit E, Figure 2 shows the coverage of channel 244A over the proposed community of license with a 70 dBu contour. Exhibit E. Figure 3 demonstrates the sizable population increase that will result as a result of the proposed allotment. Exhibit E, Figure 4 shows that no underserved areas will be created as a result of the deletion of channel 243A at Harrogate.

Conclusion

If the instant counterproposal is granted, the existing WXJB short spacing to stations WXCC (10.14 km), the construction permit for WOXL-FM (5.32 km), and WDOD (3.69 km) will be eliminated. Also, a net population gain of 326,568 persons will be receiving a new service.

For JBD Incorporated:

Lee S. Reynolds /s/ Reynolds Technical Associates 12585 Old Highway 280 East Suite 102 Chelsea, Alabama 35043

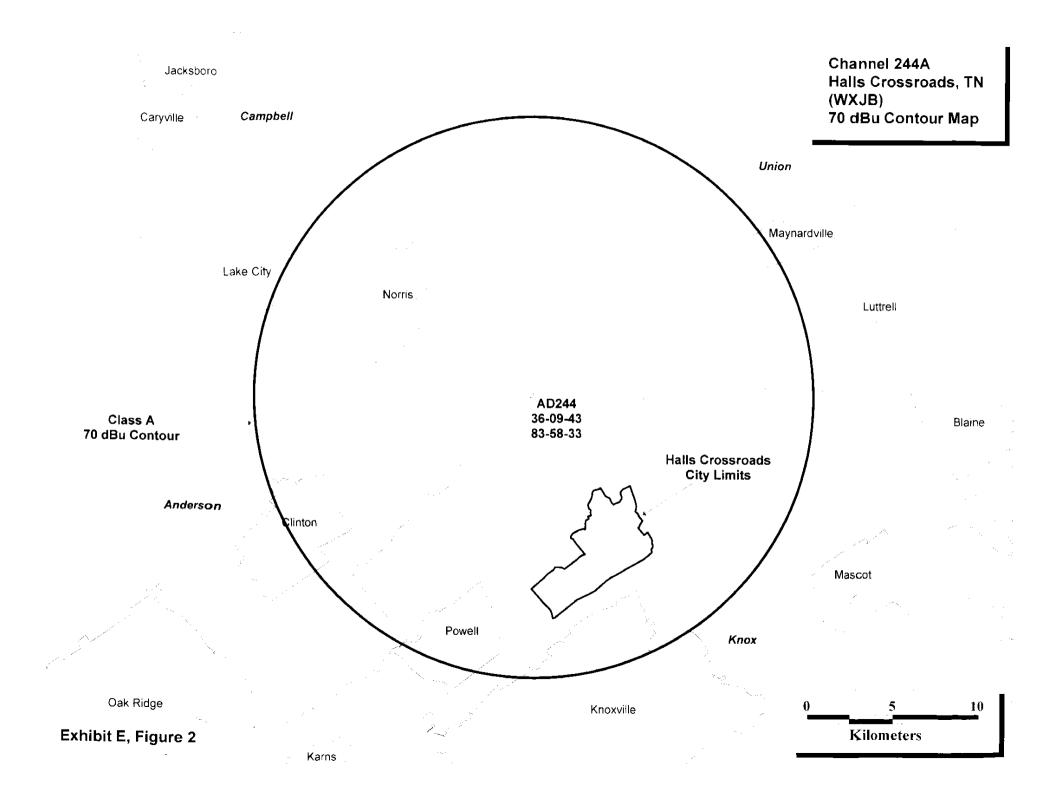
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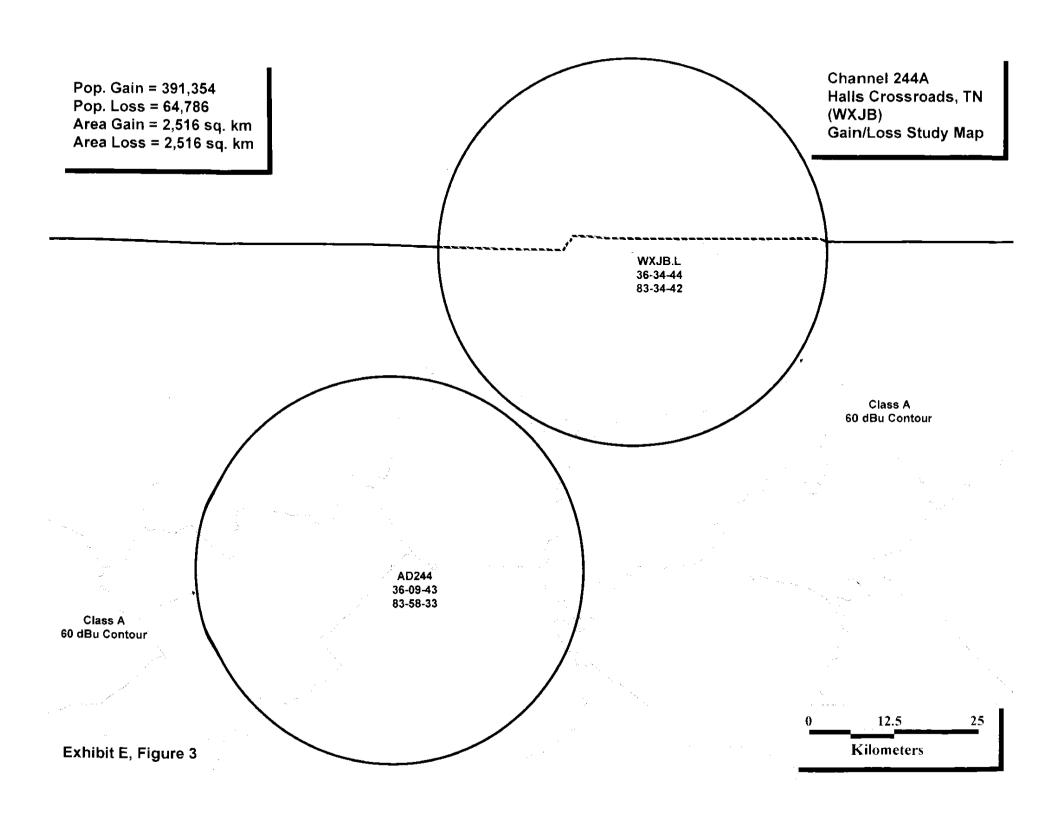
Engineering Statement In Support of a Counterproposal

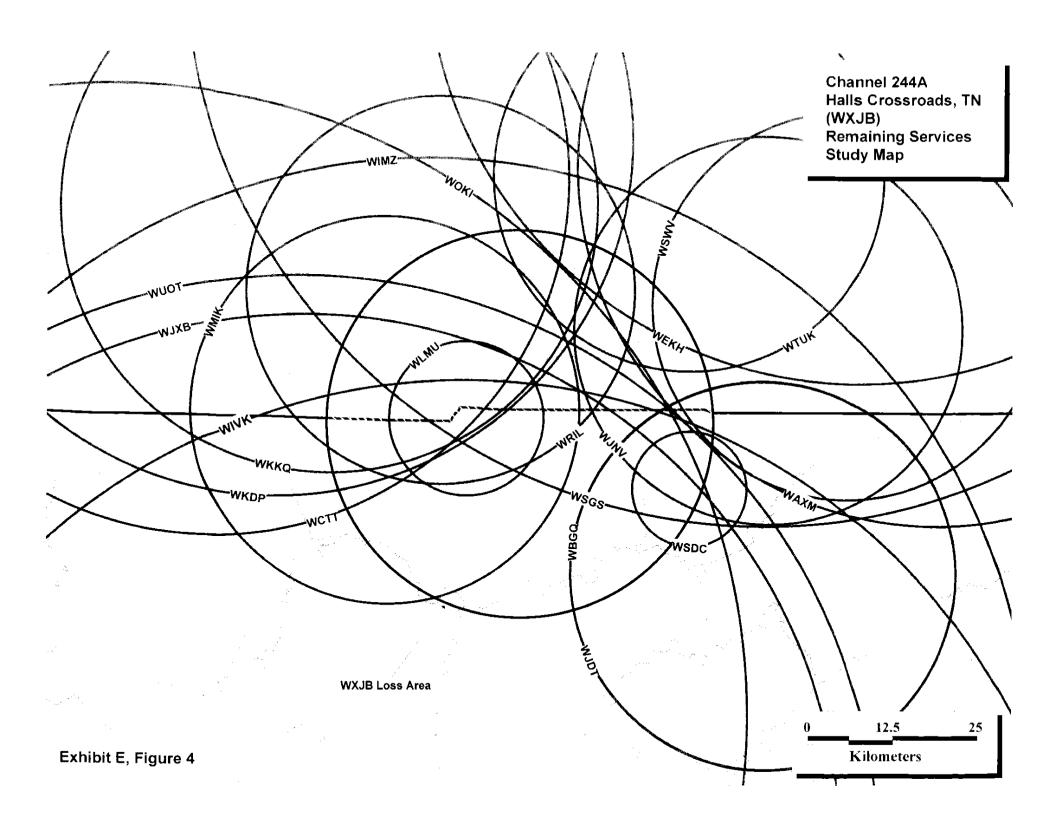
Channel 244A, Halls Crossroads, Tennessee (WXJB)

Channel 244A at Halls Crossroads, Tennessee Allocation Study

RESERENCE 36 09 43 N 83 58 33 W		CLASS = A Current Spacings Channel 244 - 96.7 MHz -		cinas	- -	SEARCH	06-28-03 07-11-03	
Call	Cha	nne!	Location		Dist	Azi	FCC	Margin
	Ref Nom	erence th Lat:	f Halls Crossroads Coordinates: itude: 36-04-49 itude: 83-56-33	TN	9.55	161.7		
		244A	Lake City	TN	23.00	281.3	115.0	-92.00
	noth: Point a	with MI	3 Docket 03-120					
		243A	Harrogate	TN	58.42	37.4	72.0	-13.58
	note: ensed	facilii	y of WXdB					
WEODEM	51C-D		Chattanooga	TN	164.61	227.9		
WDODFM	CP -D	243C	Chattanooga	ΉN	1.64.61	227.9		
RDEG	DEL	243C	Chattanooga	TN	164.61	227.9		
WNCCEM	APP-Z		Franklin	NC	115.93	149.0		
WNCCEM	APPEZ		Franklin		116.09	149.0	115.0	
MXBOEM	LIC-D		Bristol	ΤN	167.95	79.1	165.0	
WNCCFM	FIC		Franklin		118.90	152.4		
RDEL		244A	Franklin	NC	118.90		115.0	
WUBZEM		242A	Seymour		34.95		31.0	
RDEL		244A	Annville			3.5		
		244A	∧onville		120.26	3.5	115.0	
	ADD		Manchester	KY		4.0	115.0	
	ADD		Hiawassee			167.0		
		243C0	Chattanooga			227.9 5.0	152.0	
	LIC-N							
WOXIFM WSEK	OP -Z LIC	24303 24602	Biltmore Forest Somerset	KY KY	103.62	329.4	89.0 55.0	48.35





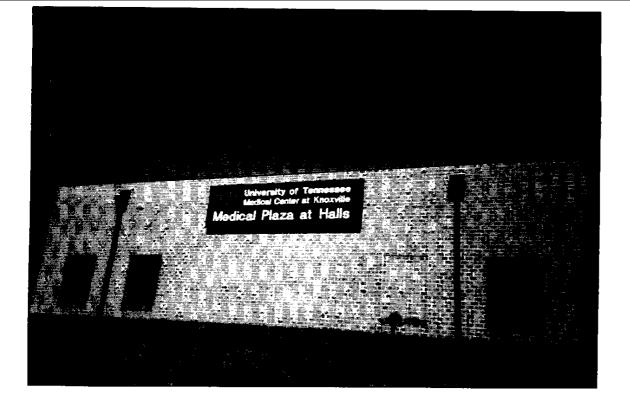




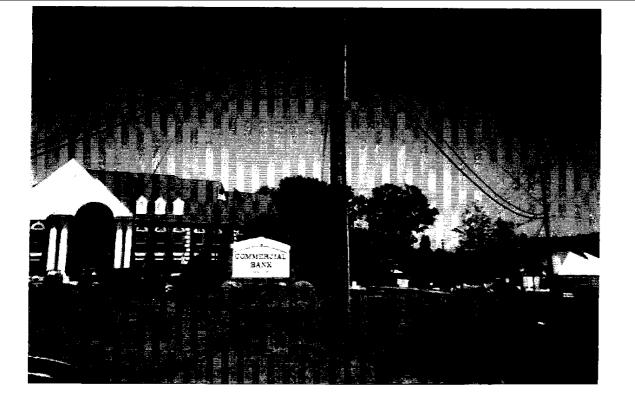


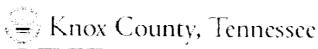














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Clerk's History

Located within the Halls Center 7028 Maynardville Highway

Open 8am to 5pm Monday - Friday



The Knox County Clerk opened these offices in 1992.

Services Offered at this Location:

(Select information by clicking on the text)

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- Driver License:
 - Phone (865) 922-5215
- Motor Vehicle:
 - Phone (865) 922-5210
- Notary Public:
 - Phone (865) 922-5214
- Passports:
 - Phone (865) 922-5221
- Business License/Tax:
 - Phone (865) 922-5214
- Community Computer Labs: Phone (865) 922-5220

Fax: (865) 922-5213



Vol. 8 Number 24 June 23, 2003

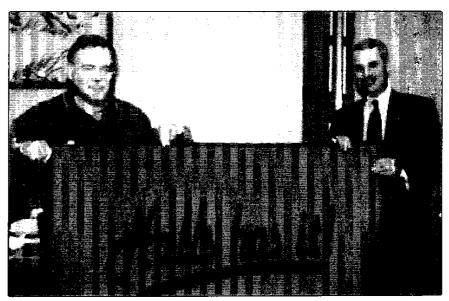
Mike Keith... Bad news for Godfrey Read More

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Community News

Thursday, July 10, 2003





Dennie Ellis presents a gift to Knox County mayor Mike Ragsdale at the June 17 meeting of the Halls Business and Professional Association

Ragsdale announces senior center for Halls; wants new facility

It was a lovefest when county mayor Mike Ragsdale spoke last week to the Halls Business and Professional Association. Donnie Ellis gave him a bright red rug that read, "Halls has it," Ted Hatfield gave him a black T-shirt with the Street Team logo; and Peggy Arnold presented a petition signed by 1,000 people asking that a Senior Citizens Center be built in Halls.

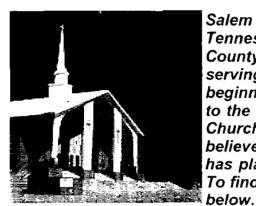
"There are a lot of seniors sitting at home today looking at four walls," Arnold said. "It's long overdue."

Halls Shopper News P.O. Box 18295 Ragsdale was quick to respond, pointing out that \$1 million is in this year's capital budget to build a new center. "I'm going to spend some time (after this meeting) to look at sites," he said. Four sites have been

Welcome to

Salem Baptist Church

A HOUSE OF PRAYER FOR ALL PEOPLE



Salem Baptist Church is located just north of Knoxville, Tennessee in the Halls Crossroads Community of Knox County. We are a church committed to worshipping and serving our Lord, and spreading the Gospel of Jesus Christ beginning first in our community then expanding our outreach to the entire world. We invite you to join us at Salem Baptist Church. We believe you will find a warm fellowship of believers and a place where you can discover the gifts God has placed within you and use them in service and ministry. To find out more about our church click on one of the buttons below.

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Omits on the picture above to see not stoled unlphotos of our new authorized. To God be the Glory!!!

Steeple Installed on

New Church Building

Public-Access Sites Page 1 of 2

Public-Access Sites

Blount County Public Library

301 McGhee Street Maryville, TN 982-0981

Oak Ridge Public Library

1401 Oak Ridge Turnpike Oak Ridge, TN 37830 482-8455

Knox County Public Libraries

Bonny Kate Branch Library
 7732 Martin Mill Pike
 573-0436
 Monday, Wednesday, Thursday & Friday 10-6
 Tuesday 12-8

- Burlington Branch Library 4512 Asheville Highway 525-5431
- Carter Branch Library 9036 Asheville Highway 933-5438
- Cedar Bluff Branch Library 9045 Cross Park Drive 470-7033
- Corryton Branch Library 7733 Corryton Road 688-1501
- Farragut Branch Library 416 North Campbell Station Road 777-1750
- Fountain City Branch Library 213 Hotel Avenue 689-2681
- Halls Branch Library
 Halls Shopping Center
 7006A Maynardville Highway

922-2552

- Karns Branch Library 7708 Oak Ridge Highway 690-0363
- Lawson McGhee Library 500 West Church Avenue 544-5700
- Mascot Branch Library 2010 Library Road 933-2620
- Murphy Branch Library
 MLB Center, 2247 Western Avenue
 521-7812
- North Knoxville Branch Library 2901 Ocoee Trail 525-7036
- Norwood Branch Library 1110 Merchants Drive 688-2454
- Powell Branch Library Powell Place
 3505 Emory Road
 947-6210
- Sequoyah Branch Library 1140 Southgate Road 525-1541
- South Knoxville Branch Library 4500 Chapman Highway 573-1772
- West Knoxville Branch Library 6800 Kingston Pike 588-8813

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September 5, 2002